

June 1, 1955.

Louis C. Wyman

Attorney General's

Proclamation terminating "emergency"  
under chapter 185, Laws of 1951.

Honorable Lane Dwinell, Governor  
State of New Hampshire  
Concord, New Hampshire

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CONCORD, N.H.

Dear Governor Dwinell:

The question of whether the proposed proclamation by the Governor terminating the "present emergency" within the meaning of chapter 185, Laws of 1951, would be consistent with the position of the Federal Government on this matter is a difficult one. In my opinion there is a sufficient inconsistency to warrant withholding of such a proclamation on your part at this time.

Chapter 185 (Laws of 1951) deals primarily with the reemployment rights of State officials and employees entering the armed forces during the "present emergency." If by proclamation the Governor terminates the emergency, employees subsequently entering the armed forces will not be entitled to reemployment privileges.

On December 16, 1950, by Proclamation No. 2914, President Truman declared the existence of a national emergency. Events occurring in Korea and the general communist threat were given as the reason for this action. This proclamation does not appear to have been rescinded.

By virtue of No. 2914 it is possible to call certain reservists to active duty without further action by the President or the Congress.

It should also be pointed out that under the Universal Military Training Act persons drafted into the armed forces are entitled to their pre-service jobs on discharge. This applies only when the individual was employed by a private employer or by the Federal Government. With respect to State employees the Act recommends that the State reinstate drafted employees in the jobs held before they were drafted.

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You have suggested that the Federal Government terminated the national emergency as of January 31, 1955. Presidential Proclamation No. 3080, dated January 7, 1955 provides that February 1, 1955 is the terminal date for certain veterans' benefits. The benefits referred to in this proclamation do not include the right of reemployment. This may be the proclamation to which you refer.

Executive order No. 16585 provides that Korea shall no longer be considered as a combat area. This order, however, deals with the Internal Revenue Code viz., members of the armed forces serving in a combat area need not pay a tax on the income earned in such combat area.

In conclusion, the proposed proclamation would not be entirely consistent with the position of the Federal Government:

1. Presidential Proclamation No. 2914, declaring a state of national emergency, is still apparently in effect.
2. Under the Universal Military Training Act it is recommended that the States extend reemployment privileges to State officials and employees who are drafted.

Respectfully,

Louis C. Wyman  
Attorney General

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